



To: Rafael Casanova/R6/USEPA/US, Robert Werner/R6/USEPA/US, Gloria-Small Moran/R6/USEPA/US,
Cc: Carlos Sanchez/R6/USEPA/US, Charles Faultry/R6/USEPA/US, Ragan Broyles/R6/USEPA/US, Susan Webster/R6/USEPA/US, Lydia Johnson/R6/USEPA/US, Wren Stenger/R6/USEPA/US,
Bcc:
Subject: Urgent Falcon Team Meeting: Receipt of Request for Dispute Resolution (Thursday @ 2:00 pm)

Hello All:

We are in receipt of the request from NORCO (the PRP) for dispute resolution. Additionally, they believe they are eligible for dispute resolution on the Remedial Order as well. See attachments.

In addition, I as met with Pam on Friday of last week (4/1/11) and gave her an improptu briefing on our discussions with the PRP about default and takeover of both the Removal and Remedial Actions. In my meeting with her we had discussed some of the issues that were on my mind since I was unable to attend the previous meeting as I was on a site and my managers from all I can tell were never asked to attend. But anyway, this is my understanding of our discussion:

1. I informed her that they were informed that only the Removal Order offered dispute resolution due to takeover but you informed that they should look through the order to determine the rights they felt they had under both orders. **Pam indicated that it was unreasonable for one order to allow dispute resolution for takeover and the other not and that orders can be changed to allow .**
2. I informed her that the dispute resolution process did not make sense if it was followed in a step by step process (OSC, then PRB, and then Div) because a decision was already made at the Division Level on a takeover and that we (Ragan and I) could not make a decision contrary to what was already made at the Division Level so ruling so go directly to the Division to make the decision with input from the Team/Managers. **Pam indicated that the Team needed to meet and discuss the objection and provide their recommendation to her or Sam on which way we should go .** It is my opinion that the PRPs should be able to come to Dallas and present their case directly to Sam/Pam.
3. I informed her that it appeared to me that we were denying the PRP due process because it was my understanding that we were going after the Letters of Credit before we have even gone through the dispute resolution process. **Pam indicated that she told the team to check on what it would take to get the money but never said to get the money .** I was told by Bob that Citibank denied us because we did not have something correct on the request and therefore the documents are now on Pam's desk for signature. I am no lawyer but this would appear to me as inappropriate until the dispute resolution process is complete.
4. I informed her that from our call with the PRP that they indicated that they are ready to go pending EPA's approval of the Contractor, QMP, QAPP, and FSP. **Pam indicated that we want to get the work done as expeditiously as possible whether it is EPA doing it or the PRP doing it . Who can get the work done the fastest?**

Basically, what I got from our meeting is that she will generally do what the Team wants her to do but wants the work complete as quickly as possible and without delay and that should be our focus in deciding who should do the work. We have hurricane season just around the corner and I would like all the waste removed from the tanks and any oily contaminated soil picked up and disposed.

In my opinion, as long as we can get assurances from the PRP that they will complete the work without any further shut downs or delays that we should allow them to move forward and do the work because they should be able to complete the work without the delay of hiring a contractor, getting them up to speed, developing the necessary plans, and doing the extraneous paperwork involved in getting a job started, etc. I already feel foolish that we just didn't take this over when they originally shut down but we

tried to work with them. I certainly don't want another stop work and neither does anyone else on the team. It is my feeling that the work can be completed much faster if the PRP is allowed to complete the work. I have been told that there is about \$300K in Removal Costs and \$600K in Remedial costs that are anticipated by the PRP. I say get the commitment that they will complete the work and have them spend these additional dollars and lets hold on to the Letters of Credit as a hedge for some type of failure by the PRP to complete. We would need to be all over them to make sure it is completed timely.

The above was my understanding of the discussions with Pam on 4/1/11 unless I completely misunderstood. I would like us to have another team meeting to discuss the above issues and our joint decision on the way forward.



QOC Letter to Atty Moran 4-1-11.pdf Fw_ Work Takeover - FYI .pdf hppscan1.pdf

Thanks
Gary Moore

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